

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE DEPARTMENT OF VETERANS AFFAIRS

Rodney W. Behm
Petitioner,

**RECOMMENDATION
FOR
DISMISSAL**

vs.

City of Hector,
Respondent.

This matter came before Administrative Law Judge Steve M. Mihalchick for a telephone conference on September 18, 2000. Marshall H. Tanick, Mansfield Tanick & Cohen P.A., 1560 International Centre, 900 Second Avenue South, Minneapolis, MN 55402-3383 appeared on behalf of the Veteran, Rodney W. Behm. Julie Fleming-Wolfe, Attorney at Law, 1654 Grand Avenue, St. Paul, MN 55105 appeared on behalf of Respondent City of Hector. During that telephone conference it was agreed that the City would provide the Veteran with the removal hearing to which he is entitled under Minn. Stat. §197.46. It was also agreed that the Veteran is presently on medical leave and not receiving any salary, so there is no issue of continuing his salary pending the outcome of the hearing. There was also some discussion regarding the format of the panel for the removal hearing, namely, whether the parties might agree to use a single neutral rather than the three member panel indicated by the statute. It was agreed that Ms. Fleming-Wolfe would draft a Stipulation for Dismissal of this matter and forward it to Mr. Tanick for signature.

On October 2, 2000, the Administrative Law Judge received a letter from Ms. Fleming-Wolfe stating that the parties had agreed that the City has provided the Veteran with his Notice of Veterans Preference Rights and that counsel were in the process of agreeing upon a format for the veterans preference hearing. She requested that the letter be considered sufficient to resolve the matter with this office. Mr. Tanick has not objected to the request.

Documents previously submitted by the City show that the City, by letter of June 8, 2000 did indeed notify the veteran of his right to request a hearing under the Veterans Preference Act, and that by letter of August 2, 2000, Mr. Tanick requested such a hearing on behalf of the veteran. The City is now in the process of providing that hearing. Therefore, the City has recognized its obligations and is providing the veteran with all his rights under Minn. Stat. §197.46 and this matter should be dismissed.

Therefore, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS HEREBY RESPECTFULLY RECOMMENDED that the Commissioner of Veteran's Affairs DISMISS the petition of Rodney W. Behm pursuant to the agreement of the City of Hector to provide him with the Veteran's Hearing to which he is entitled under Minn. Stat. §197.46.

Dated this 9th day of October, 2000.

STEVE M. MIHALCHICK
Administrative Law Judge

NOTICE

This Report is a recommendation, **not** a final decision. The Commissioner of the Department of Veterans Affairs will make the final decision after a review of the record. The Commissioner may adopt, reject or modify the Findings of Fact, Conclusions, and Recommendations. Under Minn. Stat. § 14.61, the final decision of the Commissioner of the Department of Veterans Affairs shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Commissioner of the Department of Veterans Affairs. Parties should contact Bernie Melter, Commissioner, Department of Veterans Affairs, 206C Veterans Service Building, 20 West 12th Street, St. Paul, MN 55155 to ascertain the procedure for filing exceptions or presenting argument.